

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MARCUS D. MACK,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:21-00311-CV-RK
)	Crim. No. 4:18-cr-00168-RK-1
USA,)	
)	
Defendant.)	

ORDER

Movant has filed a motion to vacate, set aside, or correct a sentence pursuant to 28 U.S.C. § 2255. (Doc. 1.) However, Movant previously filed a motion pursuant to 28 U.S.C. § 2255. *See Mack v. United States*, Case No. 4:20-cv-00550-RK. Also before the Court is a motion to withdraw filed by Movant’s Federal Defender on the grounds that Movant “has not obtained the consent of the Eighth Circuit to file a second motion to vacate his sentence” and therefore “this Court lacks jurisdiction to determine the pending cause of action, and . . . she cannot pursue [Movant’s] claim.” (Doc. 3.)

Before the district court may consider a second or successive motion for relief under Section 2255, the prisoner “shall move in the appropriate court of appeals for an order authorizing the district court to consider the [motion].” 28 U.S.C. § 2244(b)(3)(A); *see also* § 2255(h)(1) and (2). Because Movant has not obtained the required authorization from the United States Court of Appeals for the Eighth Circuit, this case must be dismissed without prejudice for lack of jurisdiction.

Accordingly the Court **ORDERS:**

- (1) This case is dismissed without prejudice. Movant may reassert his claims if and when he obtains the required authorization from the Court of appeals.
- (2) The motion to withdraw (Doc. 3) is granted.

IT IS SO ORDERED.

s/ Roseann A. Ketchmark
ROSEANN A. KETCHMARK, JUDGE
UNITED STATES DISTRICT COURT

DATED: May 25, 2021